IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 190 OF 2004

SHRI BUDO Y.GAUNCAR,QUEPEM-GOA. ....Applicant

Versus

SHRI PANDU Y.GAUNCAR(SIN.DEC.) AND ORS., ...Respondents

Shri D.N. Moratgikar, Advocate for the Applicant.
Shri Sudesh Usgaonkar,Advocate for R 1(a) to 1(j) and-2.

Coram:- R. M. LODHA, J.

Date:- 7th October, 2005

P.C.:

Heard Mr. D.N. Moratgikar, learned counsel for the applicant-appellant and Mr. S.M. Usgaonkar, learned counsel for the respondents.

2. The appellant-applicant suffered the Judgment and Decree dated 23.7.2003 passed by the Addl. District Judge, Margao in Regular Appeal No.107/2001 He preferred Second Appeal before this Court on 15.3.2004. The Second Appeal being barred by time the application has been made by the appellant-applicant for condonation of delay.

3. It appears from the relevant material that after the judgment and decree was passed by the first appellate Court on 23.7.2003, the appellant made an application for obtaining certified copy of the Judgment and Decree on 26.8.2003. The certified copy of the judgment and decree was delivered on 17.9.2003. On the legal advice, the appellant applied for certified copies of the evidence and that took sometime. The appellant-applicant in the meanwhile also lost his father-in-law and mother-in-law. Being 81 year old, the applicant suffers from various

ailments. All these facts, according to the appellant resulted in delay.

4. Though an affidavit has been filed by the respondents in opposition for condonation of delay yet on objective consideration I find that no negligence can be attributed to the appellant-applicant in prosecuting the matter. But for the diverse reasons as noticed earlier, the appellant-applicant would have filed appeal in time. As a matter of fact he has not gained anything in filing the appeal belatedly. The inconveneince caused to the respondents can be compensated by awarding of reasonable costs. Taking overall facts and circumstances of the case, I am satisfied that the appellant-applicant was prevented by sufficient cause in filing the appeal in time. The delay in filing the Second Appeal is condoned subject to the applicant paying the costs of Rs.2500/- to the respondents within two weeks from today.

5. The Office is directed to process Second Appeal and post it for admission after certicate is produced by the appellant-applicant that the costs have been paid to the respondents.

Misc. Civil Application stands disposed of.

R. M. LODHA, J.

sl.